

ENTERED

November 28, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	CRIMINAL NO. H-16-69-1
	§	
DARRELL WILLIAM SWIRE	§	

REPORT AND RECOMMENDATION

Before the court, by referral pursuant to 28 U.S.C. §636(b), is the matter of the re-arraignment of Darrell William Swire, defendant in this action. The court, having addressed Defendant personally in open court, now submits its Report and Recommendation.

On November 7, 2016, Defendant, Darrell William Swire, appeared with counsel before the undersigned magistrate judge for the purpose of entering a guilty plea to Count 1 of the Indictment charging him with possession and aiding and abetting the possession with the intent to distribute of 1,000 or more marijuana plants, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A)(vii), and 18 U.S.C. § 2.

Defendant, Darrell William Swire, consented in writing to plead guilty before a United States Magistrate Judge. After conducting said proceeding in the form and manner prescribed by Rule 11 of the Federal Rules of Criminal Procedure, this court makes the following findings of fact:

1. Defendant Darrell William Swire, after

consultation with counsel of record and with the approval of the government, has knowingly and voluntarily consented to be advised of his rights and to enter a plea of guilty before a U.S. Magistrate Judge subject to final approval and imposition of sentence by United States District Lee Rosenthal.

2. Defendant Darrell William Swire is fully competent and capable of entering an informed plea.
3. Defendant Darrell William Swire is aware of the nature of the charges, the maximum punishment range and other penalties that may be imposed at sentencing.
4. Defendant Darrell William Swire understands his constitutional and statutory rights and wishes to waive those rights. Defendant also acknowledged that he is waiving his right to appeal his conviction and sentencing as outlined in the Plea Agreement.
5. Defendant Darrell William Swire understands that the sentencing judge is not bound by any recommendation on sentencing made by either counsel for the government or counsel for the defendant, and that if a recommendation on sentencing is not followed by the sentencing judge, he may not withdraw his plea of guilty.

Based upon the foregoing findings, it is the **RECOMMENDATION** of the undersigned that the guilty plea of Defendant Darrell William Swire to Count 1 of the Indictment be **ACCEPTED** by the court and that Darrell William Swire be adjudged guilty of the offense alleged in Count 1 of the Indictment, to wit: possession and aiding abetting the possession with the intent to distribute of 1,000 or more marijuana plants, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A)(vii), and 18 U.S.C. § 2.

The Clerk shall send copies of this Report and Recommendation to the respective parties who have fourteen (14) days from the receipt thereof to file written objections thereto pursuant to Federal Rule of Civil Procedure 72(b) and General Order 2002-13. Failure to file written objections within the time period mentioned shall bar an aggrieved party from attacking the factual findings and legal conclusions on appeal.

The original of any written objections shall be filed with the United States District Clerk electronically. Copies of such objections shall be mailed to opposing parties and to the chambers of the undersigned, 515 Rusk, Suite 7019, Houston, Texas 77002.

SIGNED at Houston, Texas, this 28th day of November, 2016.



U.S. MAGISTRATE JUDGE